



Minutes of Regular Meeting
Board of Managers
Wednesday February 24, 2016
City Council Chambers, Chaska City Hall, 7:00 p.m.
Approved _____, 2015

1. CALL TO ORDER AND ROLL CALL

On Wednesday, February 24, 2016, at 7:00 PM in the City Council Chambers of the Chaska City Hall, Chaska, Minnesota, President Shirk called to order the meeting of the Board of Managers of the Lower Minnesota River Watershed District (LMRWD) and asked for roll call to be taken. The following Managers were present: Len Kremer, Michael Murphy and Yvonne Shirk. In addition, the following were also present: Lindsey Albright, Dakota SWCD; Marianne Breitbach, PLSLWD; Carrie Jennings, MN DNR; Steve Woods, Freshwater Society; Della Schall Young, Burns & MacDonnell, LMRWD consulting engineer and Loomis, LMRWD Administrator.

2. APPROVAL OF THE AGENDA

Manager Kremer made a motion to approve the agenda of February 24, 2016. The motion was seconded by Manager Murphy. The motion carried unanimously.

3. CITIZEN FORUM

There were no citizens who wished to address the board.

4. CONSENT AGENDA

Administrator Loomis pointed out that the Managers were provided with a new Financial Report. The report provided with the meeting packet reflected the 2015 budget amounts. The one provided this evening reflects the 2016 Budget.

In addition, the Financial Services agreement, Item 4 D. on the agenda has a correction. In section 10. A. the word "not" has been struck.

A. Approval of Minutes Approval January 6, 2016 Regular Meeting

B. Approval of Financial Reports

C. Approval of Payment of Invoices

- i. Carver County Finance Department - 4th Quarter 2015 financial services
- ii. Naiad Consulting - November & December 2015 Administrative services, mileage & expenses
- iii. Time Saver Off Site Secretarial - November & December 2015 meeting minutes preparation
- iv. Manager's 2nd half 2015 per diem, mileage and expenses
- v. Burns & McDonnell - December 2015 Engineering services

- vi. **Ron Harnack - December 2015 consulting services**
- vii. **Steinkraus Development - January 2016 office rent**
- viii. **US Bank Equipment Leasing - February 2016 copier lease payment**
- ix. **MN Department of Health - permits for Seminary fen monitoring wells**
- D. **Authorize agreement with Carver County Finance Department for Financial Services and designate official depositories**
- E. **Authorize 2016 Cost Share Incentive Program**
- F. **Authorize Joint Powers Agreement for Technical Assistance Services between Dakota County SWCD and LMRWD**
- G. **Authorize Agreement between the LMRWD and the Scott SWCD for monitoring, technical and other services**
- H. **Authorize 2016-2017 WOMP Monitoring Agreement between the Met Council and the LMRWD**

Manager Kremer made a motion to approve the consent agenda. The motion was seconded by Manager Murphy. The motion carried unanimously.

5. NEW BUSINESS

A. Carrie Jennings

Ms. Jennings said she will give some background on a Hennepin County Project that has been done with the University of Minnesota and she will end with a request for assistance obtaining data. She commented on the significant landslides that occurred in the past years. Hennepin County became concerned with landslides during June 2014 when a landslide caused the Fairview emergency trauma center to be shut down. The project has looked at past landslides and whether there is a correlation between slides and weather. The goal is to determine if landslides can be predicted and a warning system developed. Ms. Jennings explained they are assessing susceptibility of which slopes are prone to failures in and around Hennepin County. She noted that for any model there needs to be a lot of data to make it a robust model. She provided a brief geologic history of the Minnesota River Basin.

Manager Kremer suggested making this presentation for the city of Eden Prairie.

Ms. Jennings said they are making the maps and trying to understand the cause and factors that impact landslides. She mentioned that some sites are prone to repeat slides and those restorations have made it difficult to determine what is going on at those sites. Repairs are often made and the underlying condition that is causing the slides is not addressed.

Manager Murphy asked about the remediation for the Fairview Hospital. Ms. Jennings said she doesn't know specifics of the proposal. She noted de-watering is something that has been recommended.

Ms. Jennings talked about the precipitation and that in addition more rain, there are more intense rain events consisting of more than 2 inches. They have looked around the country for what is being done in other areas. Seattle is further along on this kind of study. Based on the work being done, best management practices will be developed. The next steps are to export the model to the whole state. A next step will be to correlate this work with a DNR spring and seeps project. Seeps and springs have an impact on the tendency of a slope to fail.

President Shirk asked if her work is limited to Hennepin County right now. Ms. Jennings said no, that in order to develop a robust model they need to have more data. However, they are looking at areas that have similar geology.

Administrator Loomis said there are meetings set up with cities identified in this project and staff will bring this project to the attention of the cities. Ms. Jennings stated there will be some recommendations for setbacks and management of slopes.

B. Freshwater Society proposal

Mr. Steve Woods said the story behind the proposal goes back a year or so, when Manager Kremer and Administrator Loomis shared concerns about sediment levels in the MN River. He and Manager Kremer met with Lake Pepin Legacy Alliance to discuss their concern with sediment. He referred to the proposal in the packet and said Freshwater Society would love to work with the watershed district. He walked the Managers through the proposal.

He said they would work with LMRWD staff to formalize the two page document into an agreement. President Shirk said they need a marketing campaign and asked Mr. Ron Harnack to provide input into the proposal. Mr. Harnack agreed and said he believes the proposal as presented is good one.

Manager Kremer said the LMRWD proposed at one time that the PCA provide some funding to study upstream watersheds in the basin, as to what would be needed in the future to meet the goals of the TMDLs. He stated there is a huge gap in all the regulatory agencies as to what's happening in the watersheds and hopes that if the LMRWD moves forward with this proposal it will identify and connect efforts going on in the basin.

Manager Kremer made a motion to approve the Fresh Water Society proposal on a preliminary basis and get together and iron out the details not to exceed \$50,000. The motion was seconded by Manager Murphy. The motion carried unanimously

Mr. Harnack suggested the Board provide a timeframe. President Shirk asked if a final proposal could be put together by the next board meeting. Staff said that it would be ready. A timeline was discussed for the entire proposal.

C. Consider Draft RFP for website redesign

Administrator Loomis said \$15,000 was put in the 2016 budget for a website redesign. She said an RFP was put together and is before the Managers at this meeting. She noted she has a list of vendors that she received from other Watershed Districts who have recently undergone this process. Manager Kremer asked if the proposals would be back by the March meeting. Administrator Loomis said she was looking for guidance from the Managers as to when they wanted to see proposals. It was suggested that the deadline for proposals to be submitted be the end of March.

Manager Kremer asked if the budget was going to be put in the RFP. Administrator Loomis explained what other Watershed Organizations have done. Manager Kremer said the budget should be disclosed.

Manager Murphy asked who would be responsible for maintaining content after a new website is up. Administrator Loomis explained the LMRWD wants to be responsible and that is one difficulty with the current site, she is not able to update the site.

Manager Kremer made a motion to approve the draft for the RFP for the website redesign and to be returned to the Board by the April meeting for consideration. The motion was seconded by Manager Shirk. The motion carried unanimously

D. 2016 Metro Children's Water Festival

Administrator Loomis said a request was received for the LMRWD to participate in this event in 2016. She provided some information regarding past LMRWD support for this event. She said she discovered that Scott County also has a water education day. President Shirk said she is in favor of participating. Manager Murphy asked where in the budget money to participate in this event would come from. Administrator Loomis said it would come out of the education budget, which has \$20,000 allocated.

Manager Murphy made a motion to sponsor the 2016 Metro Children's Water Festival at the same level as the 2015 level of \$1,500. The motion was seconded by Manager Kremer. The motion carried unanimously.

E. Request authorization to advertise for legal and engineering services

Administrator Loomis said it has been two years since the LMRWD requested proposals for legal and engineering services. She noted that Manger Raby added a couple things to the proposal. One is that the district has the right to request additional information and the right to conduct interviews.

Manager Kremer asked about the deadline for proposals to be submitted.

Manager Murphy made a motion to authorize the advertising for engineering and legal services with Manager Raby's amendments. The motion was seconded by Manager Kremer. The motion carried unanimously.

F. Authorize staff to review Carver County groundwater plan

Administrator Loomis said Carver County has adopted a new groundwater plan and according to state law, the LMRWD has two years to amend its watershed plan to be in compliance with Carver County's plan. She said she checked with Scott, Dakota and Hennepin counties to see if they will be amending their plans. Scott and Hennepin do not have plans to do anything with their plans and Dakota will be updating its plan, but does not intend to have it completed anytime soon.

Manager Kremer asked if Riley/Purgatory/Bluff Creek Watershed District (RPBCWD) has reviewed the plan. Administrator Loomis said they were involved in the planning process as was the LMRWD. She doesn't know what they are planning with respect to updating their Plan. Manager Kremer suggested checking with RPBCWD and Minnehaha Creek. Administrator Loomis said she will check with those other watershed and this item will be placed on the agenda next month.

President Shirk made a motion to table the Carver County Groundwater Plan until the next meeting. The motion was seconded by Manager Murphy. The motion carried unanimously

6. OLD BUSINESS

A. County Highway 61 & TH 41 Transportation Improvements

Administrator Loomis reminded Managers that at the last meeting the Board had authorized the Consulting Engineer to attend the kick off meeting for this project. She said information gathered at that meeting has been provided to the Managers in the meeting packet and asked if there were any questions. President Shirk asked if TH 41 bypassing downtown Chaska was

discussed. Ms. Della Young said they did not discuss that. Most of the conversation was around trying to get additional information.

Manager Murphy asked if the TH 41 and TH 169 intersection was part of this project. Administrator Loomis said that is another project.

Manager Kremer stated the District should be more closely involved with the review of MNDOT projects. He feels that district goals have been misinterpreted by agencies in the past and therefore the LMRWD needs to be involved. Administrator Loomis this is something the staff is looking to the Managers for guidance; whether or not the district should be involved. Manager Kremer said the District needs to push hard on state agencies for involvement on projects within the LMRWD. President Shirk asked what needs to be done so they can review the projects. Ms. Young said this is an aspect of what staff is working on right now through the plan clarification. Recommendations will be forth coming. A framework will be laid for what should come to the district for review.

Manager Kremer said the Administrator and Technical Consultant should be letting cities know the expectations of the LMRWD with respect to these projects. He stated it is important because the cities are at a disadvantage, when it comes to projects by state agencies. The cities should be told in no uncertain terms that these are the procedures that the LMRWD expects them to follow on these projects.

Mr. Ron Harnack said there are special provisions that regulate transportation projects and in many districts a memorandum has been worked out, short of having to regulate them directly. He stated that has worked out very well in the majority of the watershed districts for the most part on a statewide basis. He stated that unless there are specific rules that allow the District to actually address the issues or approve the project under a general permit, the State agencies do not need to comply with District standards.

Mr. Adam Ripple said the rules really function as a stick to enforce the goals of the watershed district. It (rules) is the law within the confines of the watershed district.

President Shirk clarified there are standards in place now not rules. She asked Ms. Young if rules are what staff is planning to pull together. Ms. Young said rules will be the next phase. She explained staff is working on a clarification of the standards, to make it easier for the cities and developers to understand what the District expects. A clarification is considered a minor amendment to the Plan. She said staff part of the clarification has been on identify protection gaps and the next phase will be the rules to protect sensitive resources. Manager Kremer said the District has the authority to review MNDOT projects and to make it clear to all the cities that the LMRWD wants to be involved. He said nothing needs to be changed; staff just needs to be directed to make it clear. Administrator Loomis said the cities and state agencies are becoming aware that the LMRWD wants to be involved in projects and conduct technical review of projects.

Ms. Young asked if the Managers still wanted to be walked through the presentation of the Plan clarification, since so much discussion occurred under this item. Managers agreed to move on to the next agenda item.

B. Watershed Plan Clarification
i. District Rules and Standards

Ms. Young began to review what staff has been working on. She said staff has met with the DNR and used DNR information as a framework to develop a map showing bluff impact areas to be protected. She showed the Managers the map that has been developed.

Staff has also looked at trout streams and areas that impact trout streams. Impact areas often extend beyond the boundaries of the LMRWD and the LMRWD really can't develop rules for outside of the boundaries of the district. This is where it is important to develop relationships with cities and surrounding watershed districts to protect sensitive resources such as trout streams and fens. She noted when the standards were put together, the standards in the plan were the minimum required at the time.

Mr. Adam Ripple pointed out how difficult it is for city staff to go through the LMRWD Plan looking for standards, since it is a narrative document. He detailed the approach staff is taking to make the standards more clear and boil them down to activities and thresholds. Staff plans to develop model ordinances for the cities to adopt so city rules will enforce LMRWD standards. Staff will then identify gaps and where standards need to be changed to conform with changes by other agencies; such as slopes, which may change from protecting a 30% slope to an 18% slope. Then a skeleton will be put together to consider developing rules to adopt.

Mr. Ron Harnack pointed out that if general standards have been put together, even though you haven't developed rules, the District can comment on activities when a permit is being considered. Ms. Young pointed out that the plan was adopted using general standards permit at the time and the district is now looking to afford a higher level of protection, so comments are not necessarily effective. Mr. Ripple pointed out that notification for the permits right now is kind of hit or miss and the district is not necessarily being notified about permit applications.

President Shirk asked what the timing is to have rules in place. Ms. Young said they haven't decided on a schedule to make adjustment to the plan other than the clarification. She noted that a major amendment to the plan is more complicated and time consuming and if a major amendment will be made for any other reason staff would like to do it all at once. She noted the clarification should be done within the second quarter of 2016, so maybe the end of this year or sometime next year work can begin to develop rules.

Manager Kremer commented that the problem with rules and the impact rules would have on different communities. He urged the Managers to think about moving from standards to rules, because in some cities, the district touches such a small part of some of the city and rules would impact some cities more than others. President Shirk said the LMRWD could have a process for exceptions to the rules.

Ms, Young pointed out that the rules being discussed by staff right now, would only be to protect sensitive resources and that staff has been speaking about an overlay concept. Mr. Ripple pointed out that the district could think about general permit mechanism for areas that do not impact sensitive resources to eliminate layers of regulatory authority.

ii. Project Review

This was part of the previous discussion

iii. Monitoring Plan - No report

iv. Bluff and gully

This was part of the discussion under 6.B.i.

C. Legislative Action

i. 2015 Legislative Session

Administrator Loomis said she and Mr. Harnack have met with the Corps of Engineers about the MN River Integrated Basin Study, which, as Mr. Woods pointed out, is in the seventh year and it might go on another seven years. Mr. Ron Harnack said the Environmental Quality Board (EQB) has been the local sponsor to the Corps effort. He said the Corps' plan of action, is to have a complete report by the end of 2018 but over the past five years, very little has been done by the sponsor to keep this on track. This project is not a priority for the EQB. Mr. Harnack believes the EQB should be replaced by BWSR as this project fits BWSR's mission better. The question would be whether or not the agency feels there is enough for them to gain from this project to go ahead, or if the whole effort should just be dropped. He pointed out that much of what has been accomplished in the Red River Basin has come from work done by the Corps. At this time he wouldn't recommend walking away from it.

Manager Kremer asked about the funding from the State. Mr. Harnack said it was 50/50 and that about \$30,000 a year has gone into the project. Manager Kremer asked which two creek the Corps is studying. Administrator Loomis said that Seven Mile Creek and Shakopee Creek are the two watersheds being looked at. Mr. Harnack noted there isn't a lot that is being done and someone has to pick it up, own it and help drive it. Manager Kremer asked if the LMRWD took over the role of local sponsor and asked the agencies for contributions to the cost. Manager Kremer and Mr. Harnack discussed that there is a lack of leadership in managing the Minnesota River. Mr. Harnack then informed the Managers of discussion with Senator Kathy Sheran and the prospect of legislation this year.

Mr. Harnack talked about the One Watershed One Plan and the management of the MN River. Mr. Harnack pointed out that one of the outcomes of working with the Freshwater Society should be to build a coalition of people to work together.

Manager Kremer said they need to meet with the director at BWSR since he's the one that would make the decision regarding the study with the Corps.

Mr. Harnack said he plans to have a redraft of the legislation ready this week. He thinks leadership in the house may be more amenable to the approach this legislation takes.

Mr. Harnack pointed out that even if the planning and strategy gets going the district will still be dealing with the sediment. He thinks we LMRWD should continue to approach the state to help maintain the integrity of the navigation channel. He urged the Managers to decide what they think the state's portion should be. He advised that this may not be the year to seek this legislation.

Manager Kremer asked about funding for port authorities. Mr. Harnack reported that the Governor's budget has \$10 million for ports. Administrator Loomis said staff is working on a plan and plans to be ready to request money once the money becomes available. Manager Kremer said they also need to be asking for money for the access road.

ii. One Watershed One Plan (1W1P)

President Shirk said they also are looking for comments on the draft letter of the 1W1P. Administrator Loomis detailed concerns she had when reviewing the procedures for 1W1P

and the plan content, particularly the lack of goals for the Minnesota River. She contacted Mr. Norm Senjem to prepare a letter for the LMRWD. Manager Kremer said he too had concerns. Mr. Harnack said his biggest concern is where the accountability for implementation is. He does not see any commitment to funding coming from the local level; there is no local skin in the game. Lacking basin goals and objectives the LMRWD should be involved in the process.

Manager Kremer said to send it in. President Shirk said she would like to do a final edit

D. Dredge Management

i. Review process for assessing benefitting properties

No report.

ii. Vernon Avenue Dredge Material Management site

The city of Savage requested a report on activity at the dredge site, which was provided to the Managers. There was discussion about the cost to the District of managing material and that from the formation of the LMRWD to fairly recently, probably 99% of the cost of operating the District was for channel maintenance.

iii. Secondary Dredge Site

The Corps of Engineers has sent documents to the LMRWD for transporting dredge material from the reach below I35W to the Vernon Avenue site. Legal Counsel has reviewed the documents and sees no reason for the Managers to not enter into the agreement, if they choose to go this direction.

A question was asked about the cost to transport material. Administrator Loomis said the Corps' estimate is \$70,000 per dredge event and historically, this reach of the river has needed dredging on average every 25 years.

Manager Murphy made a motion to approve the agreement. The motion was seconded by Manager Kremer. The motion carried unanimously.

iv. Private Dredge Material Placement

The LMRWD received the last check for placement of material on the site in 2015. Administrator Loomis has requested reports on the environmental testing of the material placed on the site.

E. LMRWD CIP Action Items

i. East Chaska Creek

Administrator Loomis said everything to report is in the executive summary. She reminded Managers that Tier One tasks are maintenance. Staff has spoken with the city of Chaska who said they have been behind on maintenance, but thought they would be able to catch up this season. Tier Two was to manage and restore erosion and Tier Three was to develop a wetland area to improve water quality. Administrator Loomis said she has provided the feasibility study to the DNR and there has been no feedback.

The TH 41/CSAH 61 Transportation Improvement group was made aware that the LMRWD has completed this study and that Tier Three might fit with this project, as the significant portion of Chaska Boulevard included in this project has no treatment of storm water.

F. Cavallo Ridge, Eden Prairie - No change since last update

G. Eden Prairie Local Water Management Plan - No change since last update

H. MAC Hotel Development - No change since last update

I. Fort Snelling Upper Post Development - No change since last update

J. Analysis of Dakota County Monitoring Data

Administrator Loomis said staff met with the DNR and asked if they (the DNR) would help pay for additional monitoring of the fen. The DNR responded that additional data does them no good because they don't have people to analyze the data to determine trends. The DNR said that an assessment of the health of the fen should be completed and that that is what the LMRWD should focus on. President Shirk asked if Dakota County has the capability to analyze the data from monitoring the fens. Ms. Lindsey Albright said the analysis work is something they usually hand off to the DNR.

Ms. Della Young explained the greater question is that it felt like the DNR had a plan they wanted executed. That is why she asked them the question, thinking the DNR might have something laid out already. They said, "No, they didn't". She indicated that Burns & McDonnell has the capability to do the analysis work. The DNR had indicated they have groundwater component addressed as it relates to fens, so, staff thought they might have an idea of the scope of what they need next.

President Shirk asked about the estimated cost. Ms. Young said they have not put the scope of work together and would like to vet any scope with Jennie Skancke, the area hydrologist for the DNR. Mr. Ron Harnack said this shouldn't be the watershed district's complete responsibility. He stated there should be a shared responsibility. He suggested that perhaps a request should be made to the LCCMR.

Administrator Loomis said another thought would be to approach the Met Council for funding. Manager Kremer said there is an expert staff person at Barr and he (Manager Kremer) will provide the contact information. Ms. Albright asked how this changes the work plan for the Dakota County fens. President Shirk said they want to get the data regardless and doesn't see how this would change the monitoring that we want done.

K. Education and Outreach Plan

i. 2015 River Tour - No change since last update

ii. Citizen Advisory Committee
No report

L. Seminary Fen/Chaska Ravine Stabilization Project

Administrator Loomis said the grant agreement was extended to June 30. The project is likely to be finished before the end of the extension. President Shirk asked if they can get a tour. Administrator Loomis said yes. Manger Murphy asked for some before pictures.

M. Savage Fen Ravine Project - No change since last update

N. Riley Creek Cooperative Project - No change since last update

O. Dean Lake

Administrator Loomis said the request for reclassifying Dean Lake has been submitted to the MPCA. She spoke with Chris Zadak, of the MPCA today, who said they received the requested and it has been sent along to the proper staff people. Ms. Marianne Breitbach reported on work the Prior lake Spring Lake Watershed District is planning for the outlet channel. She said the ad

for bid has been published and the pre-bid meeting is February 29th with bid opening March 4th and the contract to be award March 7th. This work will be paid for with FEMA money.

P. Bluff Creek Cooperative Project

Administrator Loomis said the construction will be starting this season since the City of Chanhassen received the easements.

Q. MPCA Soil Reference Values - No change since last update

8. COMMUNICATIONS

A. Administrator Report

Administrator Loomis reported verbally on a meeting with Senator Sheran and the change in the approach the District will be taking with respect to legislation.

She asked if the Managers wanted to purchase a table at the Fresh Water Society Ice Out/Loon In event. The cost is \$760 for a table of 8. President Shirk said she would be able to attend this year.

Manager Kremer made a motion to approve a table for 8. The motion was seconded by President Shirk. The motion carried unanimously

B. President - No report

C. Commissioners - No report

D. Committees - No report

E. Legal Counsel - No report

F. Engineer – No report

Mr. Ron Harnack reminded the Managers that BWSR will be issuing a call for those interested in participating in One Watershed, One Plan to submit a request and suggested that the LMRWD and adjoining watersheds consider applying to be one of the watersheds considered, in order to push a Minnesota River basin outcome strategy.

Manager Kremer thought the district should be ready to do this during the next cycle, but didn't think we could be ready this cycle, as BWSR has already pretty much identified the next participants. He also pointed out that one consideration would be the completion of a WRAP Strategy and that there are already watersheds that have completed WRAPS.

After discussion it was decided that the LMRWD should work to organize the adjoining watersheds and be ready to participate in One Watershed One Plan the next cycle.

9. ADJOURN

Manager Kremer made a motion to adjourn at 9:23 pm. Manager Murphy seconded. Hearing no objection, President Shirk adjourned the meeting.

Len Kremer, Secretary

Attest:

Linda Loomis, Administrator